

United States District Court  
Southern District of Texas  
FILED

APR 25 2001

Michael N. Milby  
Clerk of Court

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299

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
BROWNSVILLE DIVISION

RAQUEL O. RODRIGUEZ  
AND JOSE L. RODRIGUEZ

VS.

RIDDELL SPORTS, INC.  
RIDDELL, INC.  
ALL AMERICAN SPORTS CORPORATION  
D/B/A RIDDELL/ALL AMERICAN  
AND CHRIS HOODMAN

CIVIL ACTION NO. B-CV-96-177

RESPONSE TO PLAINTIFF'S MOTION IN LIMINE REGARDING  
MESSRS. HALSTEAD, KULT, KRAEMER AND MCELHANEY

TO THE HONORABLE JUDGE OF SAID COURT:

Regarding opinions based on infrequency of Jose Rodriguez's injuries.

Now comes Defendant's Riddell Inc. and All American and files this their response to plaintiff's Motion in Limine regarding Messrs. Halstead, Kult, Kraemer and McElhaney. Asserting that they cannot render opinions based on infrequency of injuries such as Jose Rodriguez's. These witnesses will testify that reports such as the "Annual Survey of Catastrophic Football Injuries 1977-1992" is reasonably relied on by the industry and those professional organizations concerned with sports safety and football safety.

The absence of other accidents is admissible to establish the absence of a defect. Koloda vs. General Motors Corp., 716 F. 2d 373 (6<sup>th</sup> Cir. 1983); Minichello vs. U.S. Industries, Inc., 756 F. 2d-26 (6<sup>th</sup> Circuit 1985); Hines vs. Joy Manufacturing Co., 850 Fed. 2d 1146 (6<sup>th</sup> Cir. 1988)

Wherefore, premises considered, Defendant moves the court to deny Plaintiff's Motion in Limine regarding Messrs. Halstead, Kult, Kraemer and McElhaney. And to allow such evidence which is within the personal knowledge of the witnesses and or meets the predicate of Rule 703 F.R.E.

Respectfully submitted,

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### **CERTIFICATE OF CONFERENCE**

This is to certify that I had a conference with Plaintiffs' counsel, Rex Blackburn, and he 25th to agree to this motion.

Robert Summers  
Robert Summers

### **CERTIFICATE OF SERVICE**



This is to certify that a true and correct copy of the above was forwarded by telefax transmission and certified mail, return receipt requested to counsel of record on this the 25<sup>th</sup> day of April, 2001.

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